

MONTANA PUBLIC DEFENDER COMMISSION
BUDGET COMMITTEE MEETING
CONFERENCE CALL

Public Location: Butte Central Services Office
44 W. Park, Butte, MT 59701

November 9, 2016

DRAFT MINUTES

Committee Members Present

Fritz Gillespie (Chair), Helena; Bonnie Olson, Marion; Margaret Novak, Chester

Committee Members Absent

Roy Brown, Billings

Agency Team Members Present

Bill Hooks, Chief Public Defender; Kristina Neal, Conflict Coordinator; Scott Cruse, Chief Administrator; Wendy Johnson, Contract Manager; Carleen Green, Accounting Supervisor; Marsha Parr, Case Management Support; Cathy Doyle, Administrative Assistant

Interested Persons

Sherry Staedler, Region 5 (Butte) Deputy Public Defender; Don Templin, Criminal Investigator, Butte; Andrew Vigeland, Assistant Public Defender, Butte; Malissa Williams, Office of Budget and Program Planning

1. Call to Order

The meeting was called to order at 1:30 p.m.

2. Approve Minutes of July 12, 2016 meeting (*Action Item)

Commissioner Olson moved to adopt the minutes as drafted. Chairman Gillespie seconded and the motion carried.

3. Update on Implementation of Mitigation Plan

a.) Current FY 17 Forecast

Chief Administrator Scott Cruse reviewed the forecast models and the accompanying chart showing the top 23 contract attorneys paid versus the top 23 FTE salaries. The top contractor is a law firm, but the second one is a single attorney as are most of the others. The FTE are clearly carrying more cases for less money. The best way to create cost certainty is to increase the number of FTE and reduce contract costs. However, at this point the best-case scenario—if the mitigation plan is implemented 100%—is a \$1 million shortfall.

Mr. Cruse reported that as of today the Commission's mitigation plan to stop contracting for lower court cases across the state and in the district courts in the five largest regions has not been implemented. The current "run rate" shows that the agency is spending approximately \$300,000 over the projection used in the model, putting it well beyond the original projected shortfall. Mr. Cruse acknowledged that there are certain areas where the agency will have to continue to contract, but those should be the exception. Continuing to contract is also affecting

the recruitment effort; there is no incentive for the contract attorneys to apply for modified positions if they are still being assigned cases.

Commissioner Olson expressed confusion. The Commission adopted this mitigation plan at the October 3 meeting and she doesn't understand why it has not been implemented. Is it a problem with the program managers or a refusal in the ranks? Chief Public Defender Bill Hooks said that he planned to reduce the number of contractors as the modified FTE came on, and he is working on hiring. He now knows that his understanding of the Commission's directive was not correct, and he has told the regions to stop contracting cases and to work on a waiting list.

Commissioner Olson asked that the Commission be provided with regular reports, maybe even weekly, on implementation of the mitigation plan. She wants clear documentation of what is being done and why, in case extreme measures are necessary down the road. Chief Hooks welcomes the opportunity to provide regular reports.

Mr. Cruse said that because of the co-equal management model the Commission adopted, he has no authority to require the other program managers to comply with his budgetary decisions, even in a crisis. Commissioner Novak noted that this was the Commission's one apprehension when the model was approved, and they agreed to revisit the concept if it wasn't working out.

Commissioner Novak moved that the regions be directed to immediately cease contracting as directed on October 3. Absent a second and following discussion regarding the exceptions that would be required for the Conflict program, the motion was withdrawn.

b.) Discussion of Additional Mitigation Options

There was lengthy discussion of other actions that might be necessary if the current mitigation plan doesn't overcome the shortfall, including refusing certain case types and shutting down the agency when the appropriation runs out. Chief Hooks is circulating proposals regarding experts to his regional deputies to refocus efforts on where money for third party costs is being spent. He will provide a copy to the Commission.

Commissioner Olson asked for data on the appointments for putative or unknown fathers. Chief Hooks said that some judges are going along with OPD's request not to be appointed and some are not; he is documenting anecdotally but can come up with some numbers by November 15.

Mr. Cruse reiterated that he thinks the Commission needs a single head of the organization to get through the shortfall.

4. Public Comment

No public comment was offered.

5. Recommendation for Full Commission (*Action Item)

Commissioner Olson asked that the Commission re-examine the Chief Administrator position. Chairman Gillespie agreed to add it to the agenda for the November 15 meeting.

6. Adjourn

The meeting adjourned at 2:40 p.m.